

4 - SYSTEM FAILURES AND SUGGESTED FIXES

INTRODUCTION

The prior chapters presented a framework for analyzing DWI enforcement systems and described the results of three case studies of operating systems. This chapter applies this framework and information to the identification of failures in DWI enforcement systems. Then, ways are suggested for correcting these failures and improving the performance of DWI enforcement systems. Some factors to be considered in carrying out these fixes are also discussed. Throughout, the *performance* of a DWI enforcement system is measured by the system's ability to perform functions and tasks believed to be related to alcohol-crash risk reduction.

SYSTEM FAILURES

This section is organized by the three top-level functions of a DWI enforcement system of concern in this study, i.e.,

- Enforcement;
- Adjudication; and
- Sanctioning.

Within each functional area, major categories of functional failures are defined and discussed. The failures addressed do not include all possible failures, but only those judged by our panel and other operational staff to have a significant impact on performance.

Enforcement

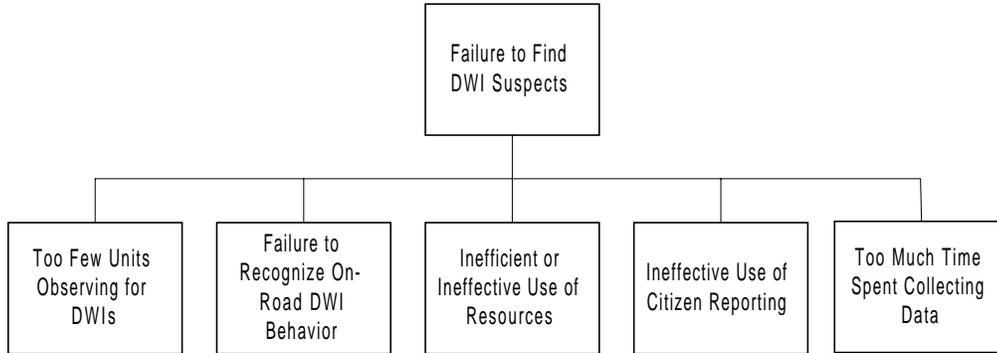
Three functional areas are of concern here:

- Find DWI Suspects,
- Confirm Suspects as DWIs, and
- Process DWIs in a Timely Manner.

Failure to Find DWI Suspects. This class of failure may be traced to one or more factors (See **Figure 4-1**). First, there may be simply *too few police units observing for DWI*. General patrol units may be deployed in large numbers, but do not actively look for DWIs. These units act on only the most flagrant DWI violations observed while enforcing other types of law violations. Special DWI enforcement units may not exist or are employed in insufficient numbers adequately to cover the enforcement agency's geographical jurisdiction.

Another factor leading to a failure to find DWI suspects is a police officer's *inability to recognize DWI driving behavior* even when it is observed. An officer

Figure 4-1: Factors Contributing to “Failure to Find DWI Suspects”



may not be aware of the more subtle behaviors associated with DWI, and not classify a driver properly as a suspect.

DWIs also may not be found when *existing resources are not used efficiently or effectively*. This is because units do not operate at times and places where DWI violations occur or because existing strategies are not augmented by other strategies such as saturation patrol, citizen reporting of DWI, and sobriety checkpoints, among others.

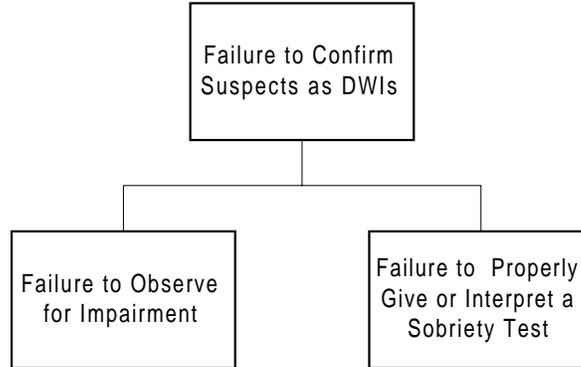
Citizen reports of suspected DWI incidents are used by some police agencies to augment police efforts to find DWI suspects. *Inefficient use of citizen reporting* that hampers follow-up by police units (for example, failure to arrange for pursuit of suspects across jurisdictional boundaries) can diminish the value of this approach.

Finally, *too much time spent collecting data for DWI cases* reduces the time available for observing for DWI by effectively taking a unit out of action during the data collection. Collecting data for use in adjudication and sanctioning functions are of especial concern in this respect. Obviously, the processing of DWI suspects occurs after DWI suspects have been found and stopped by enforcement personnel. Particularly time-consuming practices in processing DWIs after they have been confronted by a police officer are discussed below under *Failure to Arrest and Process Confirmed DWIs*.

Failure to Confirm Suspects as DWIs. Two classes of failure-related factors are of concern here (**Figure 4-2**). The first is a police officer's *failure to observe for signs of alcohol impairment*. Sometimes, an officer will rely almost entirely on BAC measurements to decide whether a suspect is impaired by alcohol. Problems in obtaining an accurate BAC reading can result in an officer's releasing an alcohol-im-

paired suspect. It also can lead to a dismissal of a case or to a not-guilty verdict if the BAC reading is successfully attacked by the defense during adjudication.

Figure 4-2: Factors Contributing to “Failure to Confirm Suspects as DWIs”



The second class of factors can cause the same failure and lead to similar consequences. In this instance, an officer observes for signs of impairment but *fails to properly give or interpret a sobriety test* (such as the Standardized Field Sobriety Test or SFST) which will reveal signs of impairment.

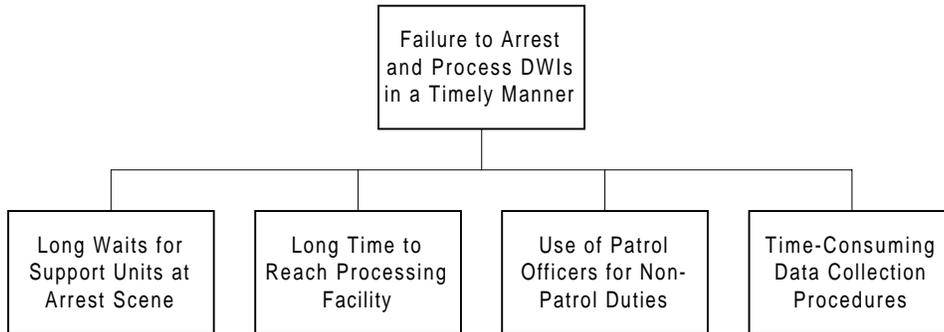
Failure to Process DWIs in a Timely Manner. This failure can occur when delays occur in performing certain law enforcement functions (**Figure 4-3**). As indicated above, a major consequence is the removal of operational police officers (those who are involved directly in interdicting suspected DWIs) too long from their on-the-road enforcement activities.

The most serious delays occur when an officer is:

- waiting for support units (for example, a tow truck or a breath-testing van) to arrive at the scene of a stop or traffic crash believed to involve alcohol;
- traveling from the scene to a processing center;
- performing non-patrol officer duties at a processing center (for example, booking a suspect into jail);
- filling out long and repetitious data collection forms at various stages of the process; and
- “baby-sitting” a juvenile suspect.

Combinations of these delays can extend processing by as much as two to four hours.

Figure 4-3: Factors Contributing to “Failure to Arrest and Process DWIs In a Timely Manner”



Adjudication

Pertinent functional areas are

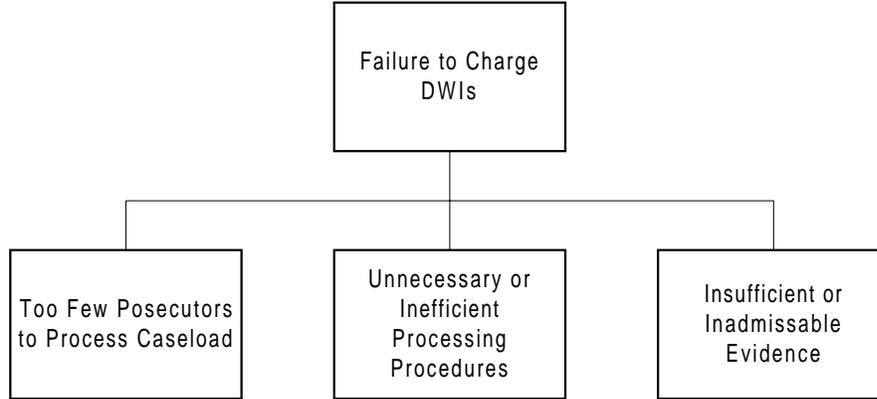
- Charging DWIs;
- Obtaining a Guilty Plea From DWIs; and
- Convicting DWIs.

Failure to Charge DWIs. The most obvious factor leading to this failure is *too few prosecutors to process the DWI caseload* (Figure 4-4). The need for more prosecutors can be exacerbated by *unnecessary or inefficient processing procedures* which increase the time for prosecutors to complete the charging process. For example, not permitting the uniform traffic ticket (UTT) provided by the arresting officer to function as a complaint can cause prosecutors to spend time in preparing a separate complaint.

The third major factor having a negative influence on DWI charging is *insufficient or inadmissible evidence*. Insufficient evidence might include a lack of proof that the suspect was actually driving the subject vehicle or that a suspect’s driving performance was impaired by alcohol. Inadmissible evidence might include evidence obtained without probable cause and BAC test results obtained with an improperly maintained instrument.

Failure to Obtain a Guilty Plea from DWIs. This failure occurs in the pre-trial phase of adjudication and can result in a lengthening of the overall adjudication process and even in a dismissal when the prosecutor’s case is marginal (Figure 4-5). The first factor leading to this failure is simply *defendants fail to appear* at some point during pre-trial. Arrest warrants are usually issued when this occurs, but the defendant may never be found. This is often exacerbated in jurisdictions near state

Figure 4-5: Factors Contributing to “Failure to Charge DWIs”



boundaries where many offenders are out-of-state residents and the warrants only appear in the computerized system of the state of arrest.

Defendants who appear at arraignment are usually offered the opportunity to plead guilty, but a plea will not be offered or accepted by the court if the court believes that due process may be denied by the defendant’s pleading guilty. The result is *too few guilty pleas at arraignment*.

Other opportunities are available during the pre-trial phase for a defendant to enter a guilty plea. Typically, such opportunities arise during negotiations occurring in conjunction with pre-trial hearings. When there is a *failure to negotiate a plea*, adjudication will continue into the trial phase.

Two procedural elements of the pre-trial phase, (1) pre-trial hearings and (2) requests for a continuance can result in long delays in adjudication. Such delays occur when there are, for several reasons to be discussed later, *too many pre-trial hearings* and *too many continuances*.

Finally, sentencing practices that result in sanctions that are less harsh than conditions contained in any plea that can be offered by the prosecution discourage defendants from accepting a plea. Factors that can lead to the imposition of too-lenient sanctions are discussed below under *Failure to Impose Appropriate Sanctions*.

Failure to Convict DWIs. This failure occurs in the adjudication or trial phase of the DWI enforcement process (**Figure 4-6**). It can cause a lengthening of the overall adjudication process and, ultimately, the release without any sanctions of DWIs who should have been convicted but were not.

As with the prior failure, some *defendants fail to appear* during the adjudicative proceedings. Again, arrest warrants are issued but may not be acted upon because of, for example, too few officers to serve the warrant. Also, other deterrents for not appearing (such as driver license suspension) may be lacking. The trial must be rescheduled if and when the defendant is found. The result may be no conviction or a delayed conviction.

Figure 4-5: Factors Contributing to “Failure to Obtain Guilty Plea From DWIs”

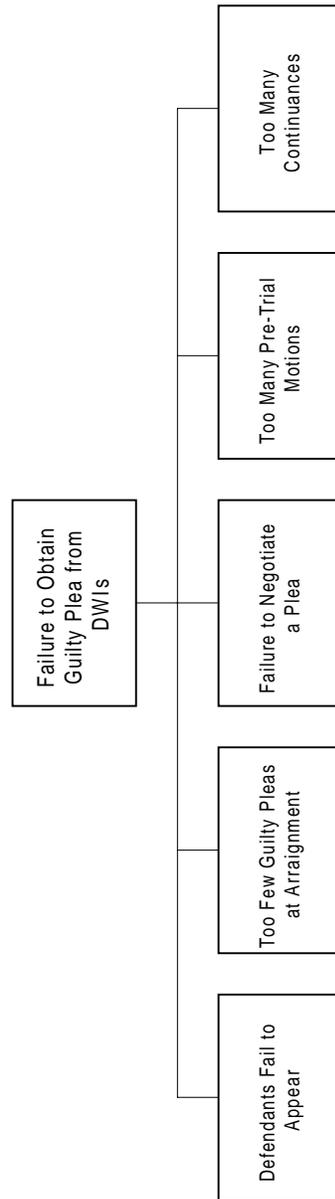
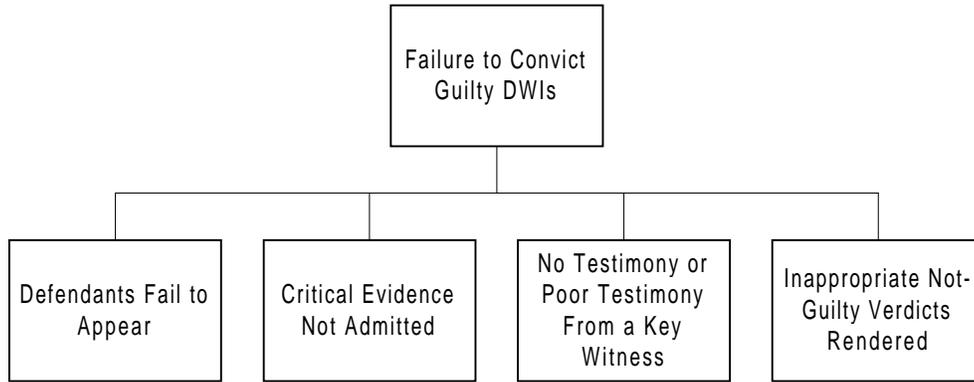


Figure 4-6: Factors Contributing to “Failure to Convict DWIs”



Another factor contributing to this failure is *critical evidence not admitted*. Such evidence might include all evidence (if the stop were illegal), breath-alcohol test results, and statements made by the suspect during questioning. Non admission of evidence may be the result of motions made by the defense during pre-trial, but can also occur when the prosecution attempts to introduce testimony or evidence during the trial.

No testimony or poor testimony from a key witness can result in not guilty verdicts and a lengthening of adjudication. Inaccurate or incomplete accounts of events preceding or during the arrest process can be seized upon by the defense to create a reasonable doubt of guilt. Examples are an officer’s failure to describe the DWI driving cues that led to the stop and a failure to describe in detail the appearance or demeanor of the suspect after the stop. In DWI trials, the arresting officer is usually the most critical witness. Non testimony from an officer results when the officer cannot appear because of other commitments or does not know that an appearance is scheduled. Sometimes, a different officer or employee administered the test, and that person may be the one who is not present.

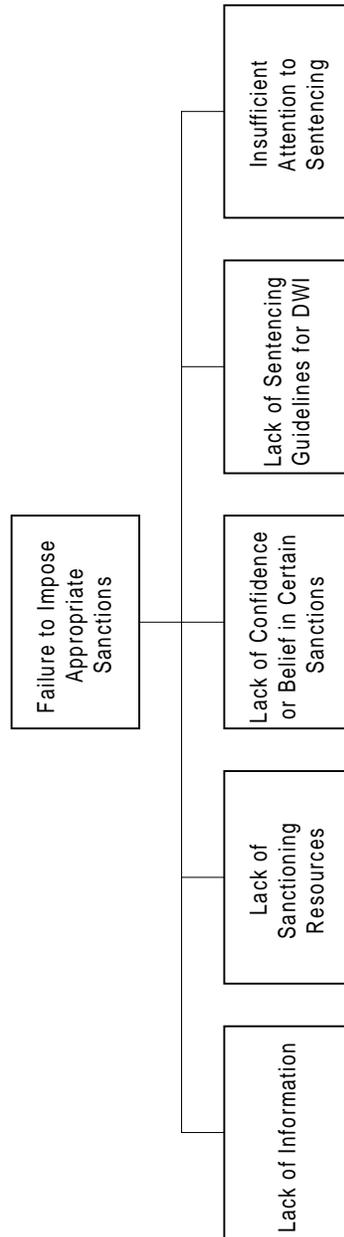
Even when the prosecution has apparently proven guilt beyond a reasonable doubt, an *inappropriate not-guilty verdict may be rendered*. A failure of jury members (or the judge in bench trials) to understand or correctly interpret the evidence or court rules underlies such verdicts.

Sanctioning

Functional areas examined were:

- Imposing Appropriate Sanctions;
- Executing Imposed Sanctions; and
- Upholding Administrative Sanctions.

Figure 4-7: Factors Contributing to “Failure to Impose Appropriate Sanctions”



Failure to Impose Appropriate Sanctions. Sanctions that do not take into account the characteristics and background of the offender, the circumstance of the offense, and available sanctioning alternatives are not likely to have the desired effect in reducing subsequent drinking-driving.

Lack of information is a major factor contributing to this failure (**Figure 4-7**). Such information includes information about the offender, including prior DWIs, prior sanctions, biographical characteristics, and drinking habits; information about the offense, including how much alcohol impairment and drinking locations; information about available sanctioning resources; and information about the causes of DWI. It also includes information about the effectiveness of available sanctioning alternatives, which may cause a lack of confidence or belief among judges in the effectiveness of certain sanctions.

Of course, information alone will not result in the imposition of appropriate sanctions if a *lack of sanctioning resources* limits available choices. The resources may be insufficient both in number of offenders that can be served, and in type of alternatives available. They can range from jail space to house offenders for the full length of a sentence, to treatment programs for alcoholism and problem drinking, and to more innovative alternative sanctioning programs.

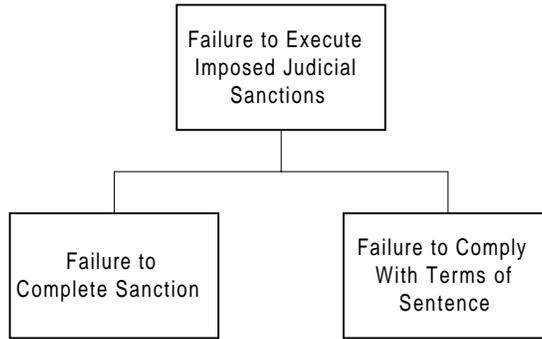
The *lack of uniformity* in sentencing across jurisdictions or among individual judges in a given jurisdiction can result in sanctions that are inappropriate not only for reducing drinking-driving, but for ensuring fundamental fairness as well. Sentencing guidelines are often provided to judges to ensure uniformity in sentencing, but the guidelines themselves may be out of date or disregarded by judges and not enforced by court administrators.

Finally, judges may simply give *insufficient attention to sentencing*, imposing “canned” or ill-considered sentences on DWI offenders. Overcrowded dockets or just a lack of understanding of the importance of the role of sanctioning in reducing alcohol-related traffic crashes may underlie this problem.

Failure to Execute Imposed Sanctions. This failure occurs when appropriate sanctions are imposed, but one or more components of the sentencing package are not fulfilled (**Figure 4-8**). The failure may surface in two forms, the first being non completion of the sanction (such as when only part of a jail term is completed). The second form is completion of the term of a sanction without fulfilling the conditions of the sentence (such as when offenders fail to appear for a treatment session or for a BAC test).

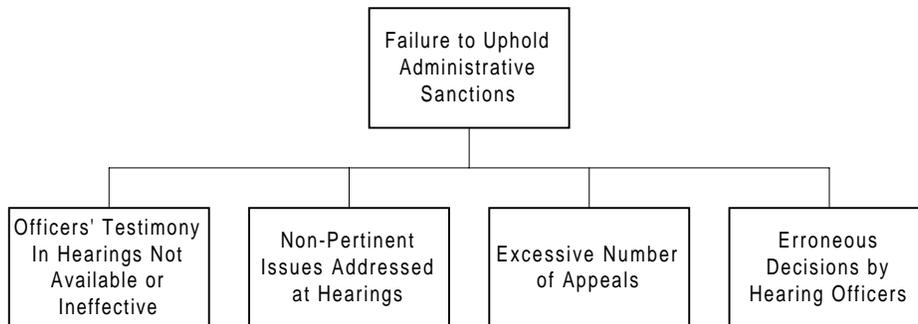
The first factor leading to this failure is a *lack of sanctioning resources*, when such a lack was not taken into account in imposing the sentence in the first place. Here, enough space or staff to hold offenders for the full term of their sentence does not exist. A second factor is a *mis allocation of sanctioning resources*, as might occur when a disproportionate amount of resources is devoted to the treatment component of a program for problem drinking as compared with the supervision component of the program.

Figure 4-8: Factors Contributing to “Failure to Execute Imposed Judicial Sanctions”



Failure to Uphold Administrative Sanctions. Administrative sanctions limiting or removing driving privileges are “automatic” in the sense that they are placed into effect without adjudication unless appealed in a formal hearing (**Figure 4-9**). In many states, the police officer initiating the administrative action is required to appear at such hearings, often acting as a prosecutor opposing a legally-trained defense counsel. If the *officer fails to appear* for some reason, the administrative sanction will not be upheld. A similar result will occur if the officer does appear but the *officer’s testimony is not effective*. This may be due to a lack of legal training or to other reason.

Figure 4-9: Factors Contributing to “Failure to Uphold Administrative Sanctions”



Procedural errors in conducting the hearing may also lead to this failure. For example, the hearing officer may allow *non pertinent issues to be addressed at the hearing*, when the only really pertinent issues are whether the driver was driving with an illegally high BAC (for a *per se* law infraction) or refused a valid request to take

a BAC test. Based on testimony addressing some non pertinent issue (for example, whether a Miranda warning was given), the hearing officer may arrive at an incorrect judgement, and in addition, the hearing may be extended in time.

Sometimes, non pertinent issues raised by the defense may be carried to the extreme, amounting in effect to a discovery session for developing information to be used later in judicial hearings. This may result in *many requests for a hearing*, placing a strain on resources and, because of problems in scheduling appearances, increasing the chances that the police officer will not appear at the hearing. Finally, as noted above, the *decision of the hearing officer may be incorrect* due to a lack of understanding of the evidence or the law.

SUGGESTED FIXES

The prior section has identified several failures in DWI enforcement systems. This section isolates some causes of these failures and suggests changes in system functions that will improve the performance of the system. Again, this section is organized by the three top-level functions of a DWI enforcement system whose processes are of concern in this study, i.e.,

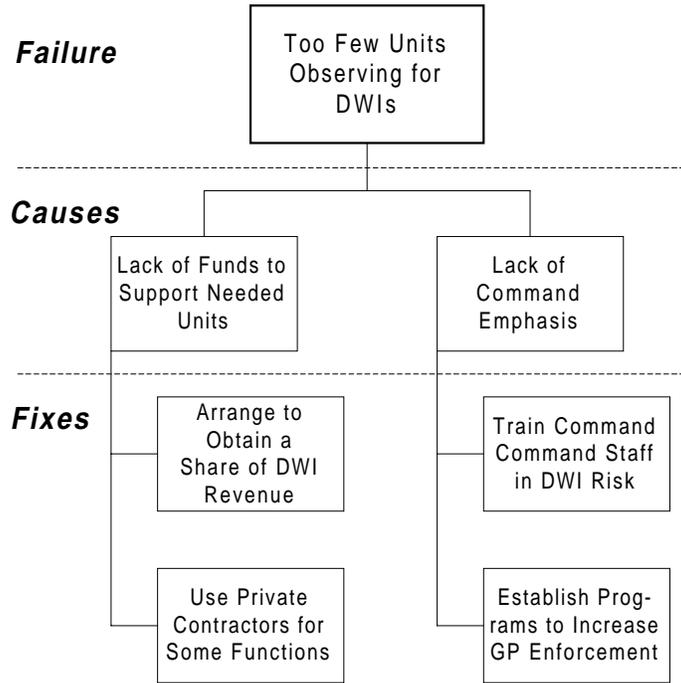
- Enforcement;
- Adjudication; and
- Sanctioning.

Enforcement

Failure to Find DWI Suspects. The first failure in this class was identified in the preceding section as *too few police units observing for DWI*. The first major cause of this failure is a lack of funds to support needed units (**Figure 4-10**). Such funds are most commonly used to support special DWI enforcement units. Often, “seed-money” grants are sought for this purpose, usually providing start-up funds for a short time, say three years, and then ceasing the funding. Unfortunately, funding after this period may not be picked up by local jurisdictions that do not have the money for all “priority” programs, and the units are disbanded, reduced in size, or used less frequently. Continuing grants are rarely available to provide ongoing support.

Two fixes are suggested for this problem. First, DWI enforcement should be “sold” to state and local funding agencies as an important source of funds that can support not only DWI enforcement but other needs as well. The latter could include (1) catching violators of other, non-DWI laws, (2) reducing the societal cost of traffic crashes (including the cost of fatalities and injuries, and the cost of days lost from work), and (3) making the community safer and more livable. NHTSA has been recommending so-called “self-sufficiency” of DWI programs for many years, but many needy jurisdictions have not adopted it, possibly because of a lack of

Figure 4-10: Causes and Fixes of “Too Few Units Observing for DWI”



knowledge about how to go about establishing such an arrangement. NHTSA regional and state offices can help in this respect by providing assistance to jurisdictions in setting up self-sufficiency programs in conjunction with their seed-money grants. It is important that such advice be provided at the state or local level because of state laws that sometimes restrict the direct use of money from traffic fines. When fines cannot be used in any way to support DWI enforcement, assessing special fees on DWI offenders may be possible, such as making them pay for their treatment program.

A second suggested fix is to involve private contractors in the DWI enforcement process. For example, Los Angeles County, California, is using a contractor to collect probation costs and restitution awards from probationers. The contractor keeps part of the probation cost (but not restitution), and returns the remainder to the County. Variations on this theme could be used to fund DWI enforcement efforts (not necessarily limited to police functions) in other jurisdictions consistent with local conditions.

A second cause of too few units observing for DWIs is a lack of emphasis of DWI by police command staff. This problem is also related to a lack of funds for needed units, where a necessary portion of available funds is not allocated to special DWI units. An obvious fix is to establish a training program for command staff on the nature of the alcohol-crash problem and the size of the risk it creates compared

with that of other problems being dealt with by law enforcement. Such training would encourage command staff to reconsider their current allocation policies and would also prepare them to respond better to public and political pressures for policies that would de-emphasize DWI enforcement.

Lack of command emphasis is manifested in a lack of enforcement of BAC laws by general patrol (GP) units. These units follow command policy in looking for other law violations that may be perceived by command staff (or the public) to create higher risk. Thus, another fix is to *establish programs that would result in increased enforcement of BAC laws by GP units*. Such a program should include training for GP officers on the nature and size of the alcohol-crash problem, and on other pertinent aspects of DWI enforcement, with emphasis on driving behaviors associated with DWI. In addition, and most important, the program should incorporate a system of rewards for outstanding performance by GP personnel for DWI enforcement. Such rewards might include a monetary bonus and time off from duty, and a plaque or a framed certificate. Community organizations and businesses could participate by offering dinners for officers and their families, free passes to movies, etc.

The second failure in this class was a police officer’s *inability to recognize DWI driving behavior*. This problem is not limited to GP officers but may also exist within special DWI enforcement units. The primary cause is simply a lack of knowledge of DWI driving behaviors, and this can easily be remedied by a training program that would include NHTSA’s DWI detection cues and ride-alongs with officers skilled in DWI detection (**Figure 4-11**).

The next failure was *inefficient or ineffective use of resources*. In a failure to find

Figure 4-11: Cause and Fix of “Inability to Recognize DWI Driving Behavior”

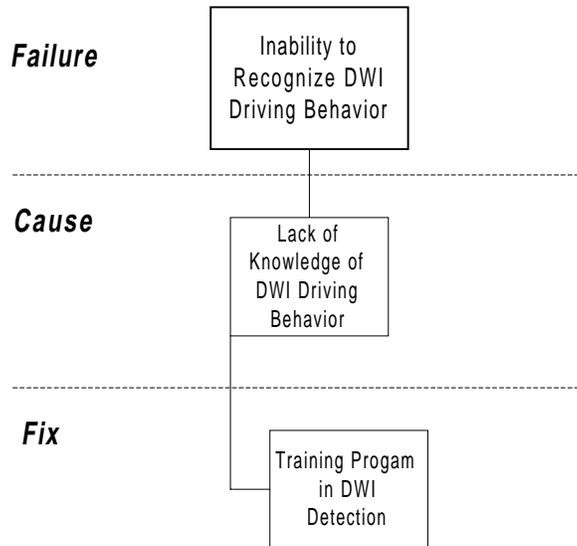
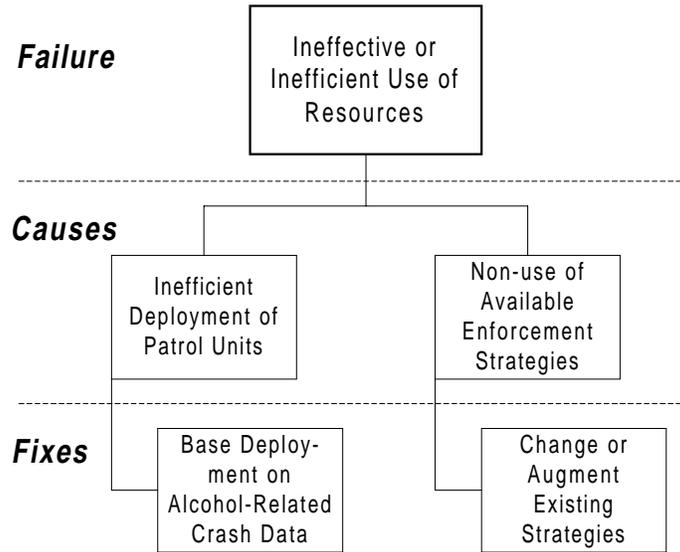


Figure 4-12: Causes and Fixes of “Ineffective or Inefficient Use of Resources”

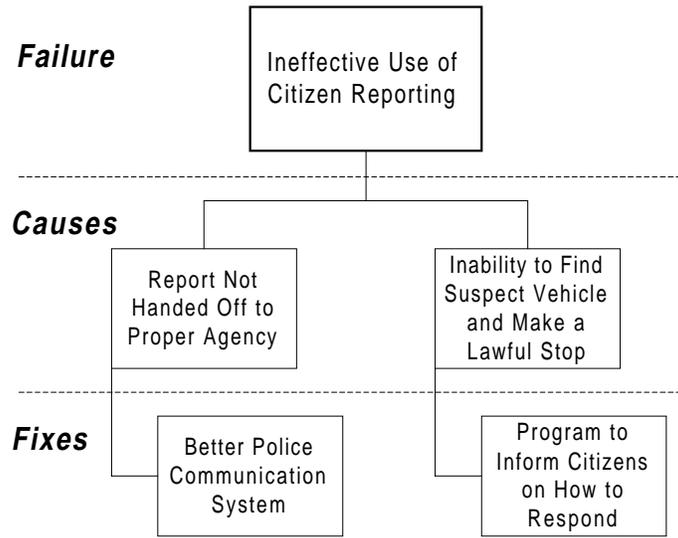


DWIs, two causes are of concern, *inefficient deployment of patrol units* and *non use of available enforcement strategies* (Figure 4-12). The suggested fix for the first cause is to use data on times and locations of alcohol-related crashes (and other alcohol-related incidents, if available) to develop deployment policies that will provide coverage to areas of greatest risk. In doing this, other areas of relatively low risk should not be neglected, but should be provided some coverage to maintain a jurisdiction-wide deterrent effect. The deployment policy should be updated periodically, since priorities may shift in response to changing drinking locations and driving habits.

With respect to the second cause, we suggest that police agencies critically reexamine their existing BAC- law enforcement strategies to ascertain which of them should be changed and whether new strategies should be adopted. For example, a police agency may rely exclusively on a “fishing hole” strategy that involves surveillance or periodic checking of areas with late-night drinking establishments. Other areas in the agency’s jurisdiction may be left unattended.

A roving saturation-patrol strategy in which several units cover successively (and randomly) various sectors should be considered to fill this gap. If the agency does not have the resources for this strategy, then the use sobriety checkpoints in cooperation with other police agencies (such as a nearby State Patrol post) should be considered, and citizen reporting of DWI incidents (especially in jurisdictions with large areas to cover) should be promoted. All these additional strategies, combined

Figure 4-13: Causes and Fixes of “Ineffective Use of Citizen Reporting”



with heavy media coverage, help create the perception of strong, jurisdiction-wide enforcement of BAC laws and by that enhance general deterrence of DWI.

A fourth failure contributing to failure to find DWI suspects is the *ineffective use of citizen reports*. This failure can usually be traced to two different causes (**Figure 4-13**). The first cause is that the report is not handed off to the proper agency because the citizen observing possible DWI driving behavior calls a police number in an area in which the agency does not have jurisdiction. This problem can be eliminated by having a better regional communication system in which a citizen can call a single number other than 911 to report a complaint. The communication system should be able to notify the proper agency for action, and the nearest unit having geographical jurisdiction can be assigned.

A second cause of ineffective use of citizen reporting is that the officer either cannot find the suspect vehicle or, having found it, does not have sufficient information to make a lawful stop. A suggested fix is to set up a program of public information advising citizens on how best to respond to such an incident. The citizen should be encouraged to stay with the suspect (if possible and safe to do so) until an officer arrives, reporting to the dispatcher that, for example, that the officer is behind the suspect vehicle. The citizen should also report a clear description of the vehicle, its occupants, and its maneuvers. Such information will be useful to the officer in finding the vehicle and later during adjudication even if the citizen does not appear in court to testify.

The fifth and last failure in this group is *too much time spent collecting data* throughout the law-enforcement function. The obvious cause is time-consuming and

inefficient data collection procedures (**Figure 4-14**). Often, multiple forms are used (sometimes ten or more forms), each form containing unnecessary data items and data items contained in other forms. Officers spend considerable time just copying information (such as name, address, driver license number) from one form to other forms. Sometimes, patrol officers are required to fill out the forms required for the booking process or for other post arrest functions such as the conduct of chemical testing at police headquarters. All of this takes the officer off the road for too much time, time that could be spent observing for DWI violators. Since many officers are frustrated by this task, it may provide a disincentive to make the arrest in the first place.

The first fix is to reduce the number of forms and data items to those that are really necessary, taking care to eliminate redundant and repetitious data items. For most jurisdictions, no more than four forms should be filled out by the arresting officer:

- Uniform Traffic Ticket;
- Incident Report (including probable cause elements or affidavit, if required by law);
- Towed Vehicle Report; and
- Administrative License Suspension / Implied Consent Form.

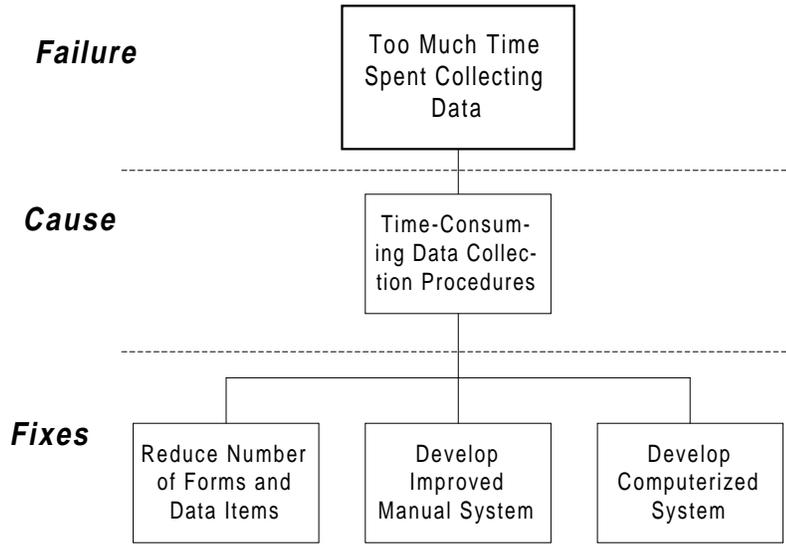
The incident report has perhaps the most potential for improvement. It should be restricted to one or two pages covering:

- arrestee identification;
- time, location, road condition, and ambient conditions of the incident;
- officer observations of the arrestee and the results of field sobriety tests;
- implied consent and BAC test results; and
- a short narrative containing case notes on the details of all aspects of the incident.

Further time savings could be possible by improving an agency's existing manual system of data collection. Particularly important in this respect are improvements that reduce the officer's involvement in performing clerical functions. For example, an officer can tape-record the information required in the forms, and the forms can be filled in later by clerical staff.

Still larger reductions in time spent in data collection can be realized by developing a computerized DWI data system, possibly as a module of some existing criminal justice information system. Software can be provided that allows the forms to be displayed on the computer screen along with drop-down menus with possible values of categorical data items. The officer could then select values without any key

Figure 4-14: Cause and Fixes of “Too Much Time Spent Collecting Data”



stroking. This can also reduce transcription errors caused by unclear handwriting, and can provide a common means for communicating the same information. Basic information (e.g., driver license number) could be entered just once and used in other “reports” as needed. For example, prosecutorial and judicial agencies could download the information needed in adjudicating DWI cases. Such software can be quite sophisticated, allowing the location of an incident to be pointed to on a computerized map and automatically transferred to the form.

The best hardware solution for such a system would be personal notebook computers assigned to each patrol officer, possibly tied into a network providing access to other information. An intermediate solution might employ terminals at a headquarters or post location that could be used for completing forms using an officer’s field notes.

Failure to Confirm Suspects as DWI. The first failure in this class is *failure to observe for signs of alcohol impairment*. It is caused by either (1) a lack of knowledge of the signs or (2) a lack of understanding of the importance of such signs in prosecuting the case if an arrest is made (**Figure 4-15**).

The next failure of concern here is *failure to properly give or interpret a sobriety test*. As in the prior failure to observe signs of alcohol impairment, the causes are a lack of knowledge of how to conduct a sobriety test and a lack of understanding of the importance of the test (**Figure 4-16**). Again, the fix is officer training. The training should focus on the Standardized Field Sobriety Test (SFST) developed by NHTSA.

Figure 4-15: Causes and Fix of “Failure to Observe for Signs of Alcohol Impairment”

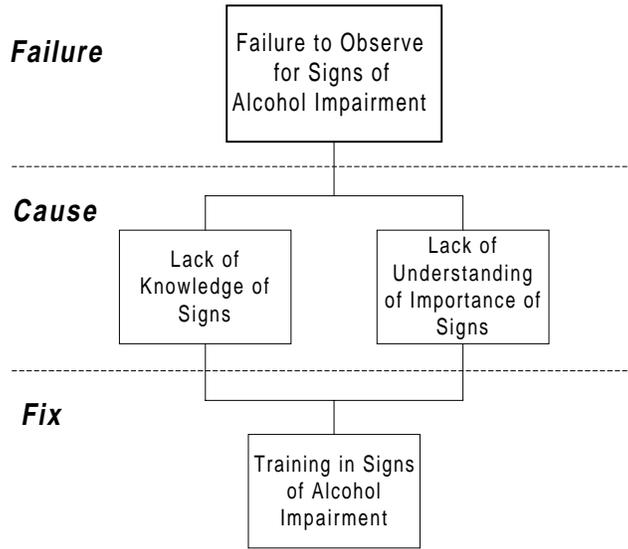
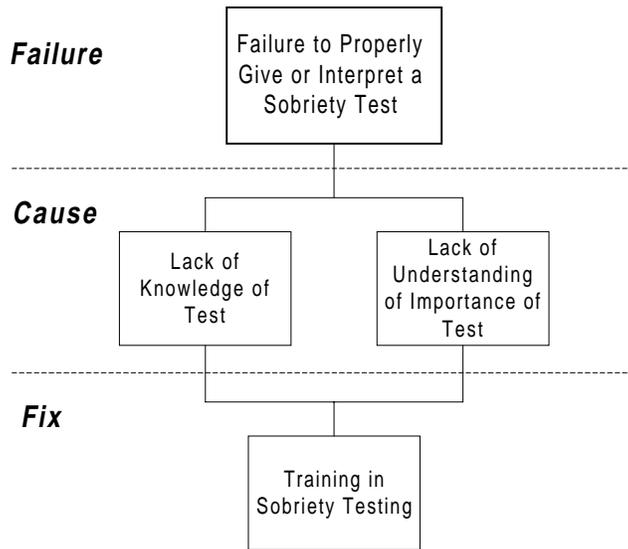


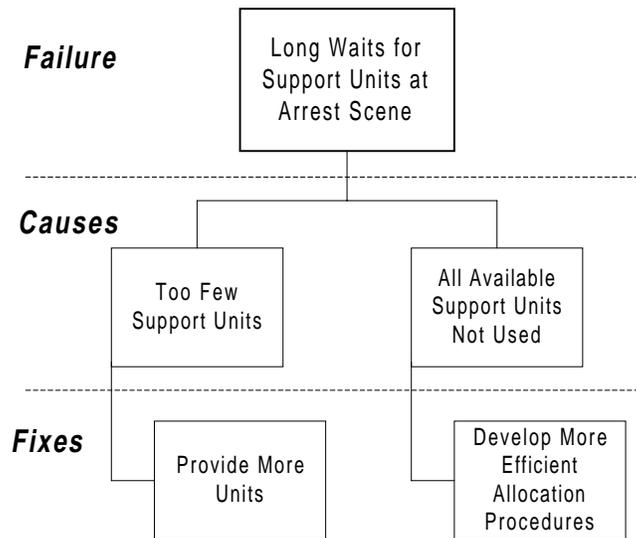
Figure 4-16: Causes and Fix of “Failure to Properly Give or Interpret a Sobriety Test”



It should be required for all police officers and should use a common training package. All officers should be required to be certified in the SFST. If necessary, officers should be paid overtime to attend the class. Again, the course should stress the critical importance of sobriety testing in making a DWI case. It should emphasize that the use of a portable breath testing device (PBT) is merely confirmatory of impairment and not the primary indicator of impairment.

Failure to Process DWIs in a Timely Manner. The first failure underlying this class of failures is *long waits for support units at the scene of an incident*. It may be traced to two causes, (1) not having enough support units to service a DWI incident, and (2) not using all available support units to provide services (**Figure 4-17**). In

Figure 4-17: Causes and Fixes of “Long Waits for Support Units at Arrest Scene”



principle, the first cause can be addressed simply by adding more support units. However, this fix would only apply to services controlled by some governmental entity with the funds or resources to provide the additional units. For example, if tow trucks were the problem and city trucks were used, then more trucks would have to be purchased by the city. If trucks were provided by private contractors, then arrangements would have to be made with the contractors (or with more contractors) to have more trucks standing by for possible calls during peak hours.

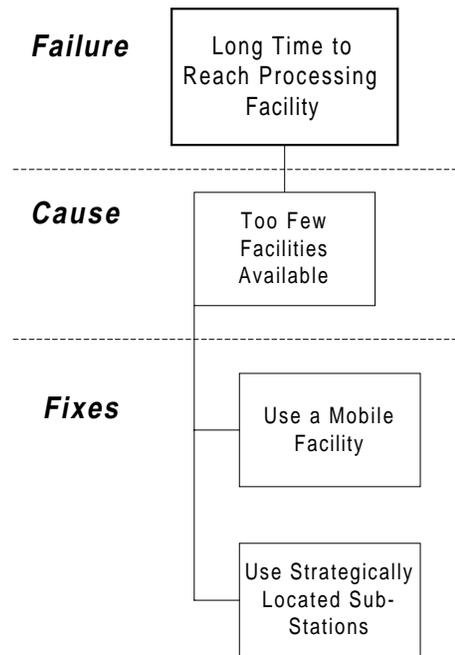
A better solution might be to address the second cause and develop more efficient procedures for allocating resources. For example, many police agencies have a policy of rotating tow truck providers, using company “A” for, say, a week and then

switching to company “B” for the next week, etc. This will leave gaps in coverage in areas not near to the locations where the current company’s trucks are operating.

Adopting a policy of dispatching the nearest truck regardless of company would alleviate this problem. The policy could also incorporate a provision allowing a suspect the option of securing the vehicle and leaving it at the scene when a safe and convenient location exists for parking the vehicle.

A second failure leading to excessive DWI processing time occurs when it takes a long time to transport a suspect to a location for additional processing (usually post arrest processing). This failure is caused by having too few breath alcohol testing facilities (BATs) or jails available (Figure 4-18). Two fixes are suggested for this problem.

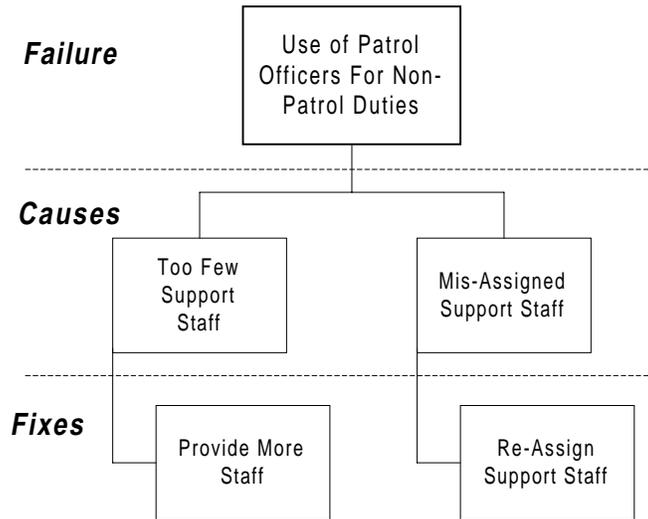
Figure 4-18: Causes and Fixes of “Long Time to Reach Processing Facility”



First, an agency could use a mobile BAT facility that would be called to the scene and used for all post arrest processing, including breath testing, booking, and transport to a holding facility. A second fix would be to have additional BATs in police substations scattered about the service area. In both fixes, the suspect would be handed off to a responsible officer in the mobile facility or at the substation to complete the processing.

A third failure is *use of patrol officers for non patrol duties*. Any time spent by patrol officers on non patrol duties can be deducted directly from the time they can

Figure 4-19: Causes and Fixes of “Use of Patrol Officers for Non-Patrol Duties”



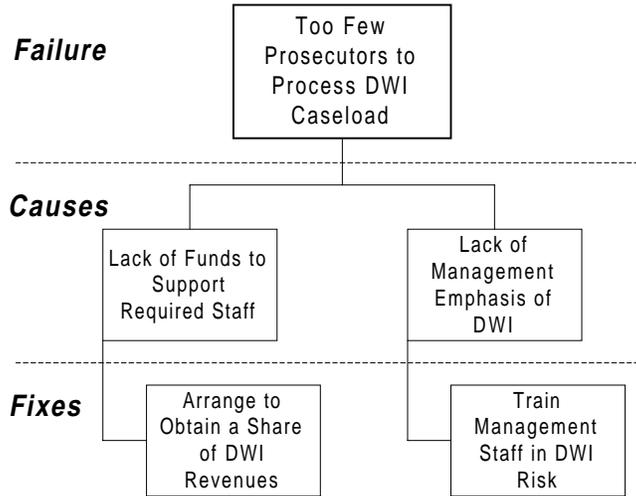
spend looking for and confirming DWI suspects. Patrol officers are assigned non patrol duties because of a lack of non patrol support staff or because existing staff is mis assigned and do not do more critical support duties (Figure 4-19). Additional support staff would fix the first cause if the staff were used properly. For example, the staff could be used to operate BAT vans or less-equipped vehicles. Such vans or vehicles could be dispatched to the scene to transport and process a suspect after a stop and initial processing by a patrol officer. With respect to the mis assignment of support staff, we found that patrol officers often perform several support duties simply because other available staff have not been assigned those duties. For example, it is common for patrol officers to remain at a BAT station, filling in forms, helping in booking, and even accompanying a suspect to the jail or holding facility. Clearly, these duties could be assigned to other staff already at the station, releasing the patrol officer to his or her primary operational duties.

The fourth and last failure in this group is *time-consuming data collection procedures*. This failure and its causes and suggested fixes have already been discussed in connection with *Failure to Find DWI Suspects* (see page 69).

Adjudication

Failure to Charge DWIs. The first failure in this group is *too few prosecutors to process the DWI caseload*. It parallels the enforcement failure *too few units observing for DWI* discussed beginning on page 65, preventing suspects’ entry into the adjudication subsystem of the DWI enforcement system. As with the enforcement failure, this adjudication failure is attributed primarily to two causes, a lack of funds to support the required staff, and a lack of management emphasis of DWI

Figure 4-20: Causes and Fixes of “Too Few Prosecutors to Process DWI Caseload”

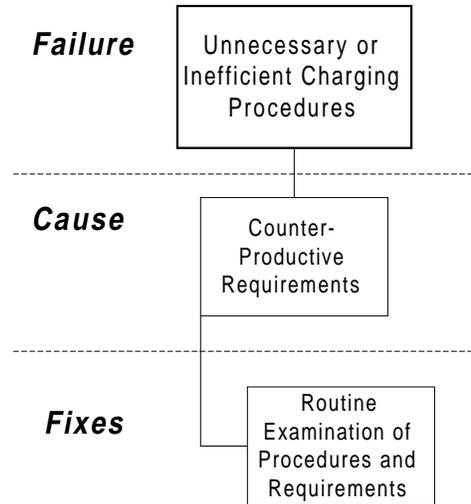


(Figure 4-20). Some of the fixes suggested for the lack of funds for enforcement also apply here. These include selling the need to deal aggressively with the DWI problem to state and local funding agencies and to the public, and establishing “self-sufficiency” programs for DWI offenders. The media and advocacy groups should be called upon to help get support for operating and improving this aspect of case processing.

To remedy the lack of management emphasis of DWI, a jurisdiction could establish a training program for management staff on the nature of the alcohol-crash problem and the size of the risk it creates compared with that of other problems being dealt with by prosecutors. As with the suggested program for enforcement command staff, the training would encourage managers to reconsider their current allocation policies and would prepare them to respond to pressures to de-emphasize DWI.

Another failure leading to DWI suspects not being charged for DWI is *unnecessary or inefficient charging procedures*. Such procedures delay adjudication and increase staff time and resources needed for charging. The procedures are often the result of statutory and regulatory requirements, but may also arise within a prosecutorial agency in response to some particular systemic problem (Figure 4-21).

Figure 4-21: Causes and Fixes of “Unnecessary or Inefficient Charging Procedures”



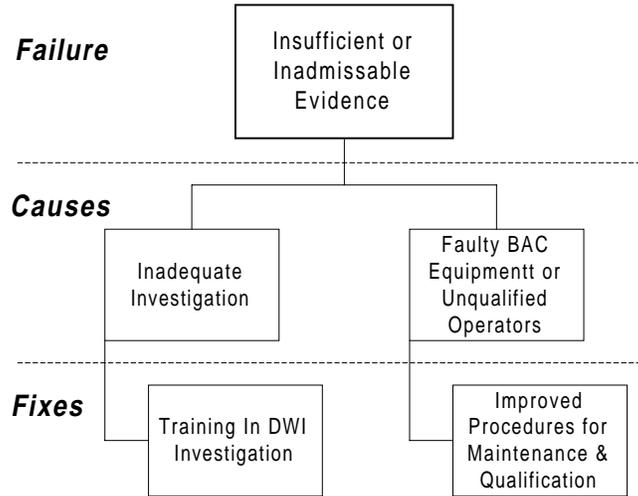
For example, legislation required one agency to “validate” its uniform traffic tickets (which had been used as the formal complaint or accusation) before filing with the court. The agency’s response was to schedule a retreat for all deputy prosecutors once a month to clear up all of its complaints. The complaints were then “batched” into the court which was then faced with a sudden “bump” in case flow and attendant docketing problems.

Specific fixes for problems of this type are hard to identify because of the diversity of the problems. We can only offer the general recommendation that prosecutorial agencies establish a policy of routine, periodic review of their procedures to ensure that counterproductive changes have not occurred or are being contemplated. The effect on charging of any proposed changes in procedures (due to legislation or other factors) should be critically examined by agency management before being adopted.

Insufficient or inadmissible evidence is the third failure resulting in non charging of suspects. Here, we are alluding to a lack of essential evidence or to grossly flawed evidence that would almost certainly result in dismissal or other unfavorable outcome in court. Examples are: uncertainty as to the driver of the suspect vehicle, marginally low BAC readings combined with a lack of other evidence of impaired driving, use of an uncertified breath test operator, and unavailability of key witnesses to testify.

There are two basic causes of this problem, (1) inadequate investigation at the scene (especially when a crash is involved), or later in support of case-preparation by

Figure 4-22: Causes and Fixes of “Insufficient or Inadmissible Evidence”



the prosecutor; and (2) faulty breath testing equipment or unqualified operators (**Figure 4-22**).

The suggested fix for the first cause is to provide training in DWI investigative methods to police officers and to investigators used by prosecutors. The proper use of investigative tools (such as videotaping, discussed on page 84) should be covered in the training. For the second cause, we suggest developing and implementing improved procedures for maintaining breath-alcohol testing equipment and for ensuring that equipment operators are certified. With respect to certification, we recommend that all patrol officers be certified as operators, and their certifications be kept current.

Failure to Obtain Guilty Pleas from DWIs. The first failure in this group occurs when *defendants fail to appear*. The major cause of concern here is the defendants’ belief that they will not be apprehended for not appearing (**Figure 4-23**) and will thus avoid any sanction that might be imposed either for DWI or for failure to appear (FTA). The suggested fix is to put a system in place by which the state DMV will take action against the driver’s license. In such a system, the DMV would be notified of the defendant’s FTA, and the FTA would appear on the defendant’s driving record. Also, defendants should be advised in advance on all notifications to appear in court that failure to do so will result in a license suspension and also a warrant for arrest on the separate charge of FTA.

Figure 4-23: Causes and Fixes of “Defendants Fail to Appear”

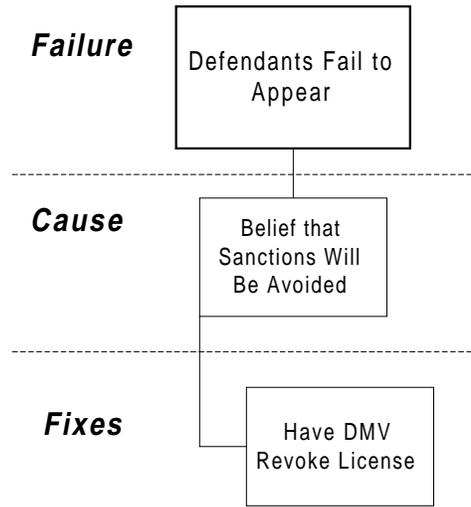
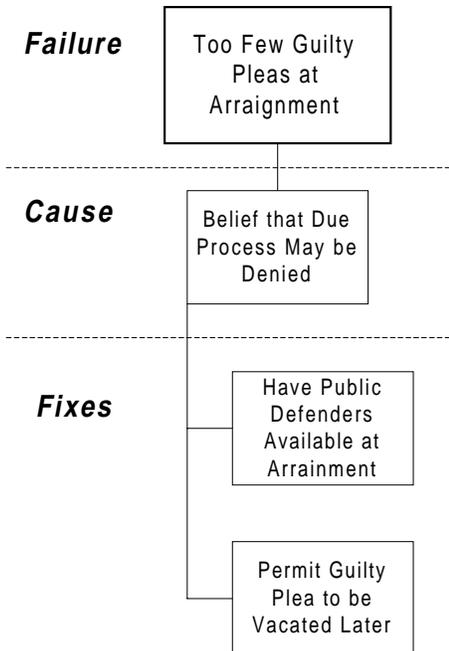


Figure 4-24: Causes and Fixes of “Too Few Guilty Pleas at Arraignment”

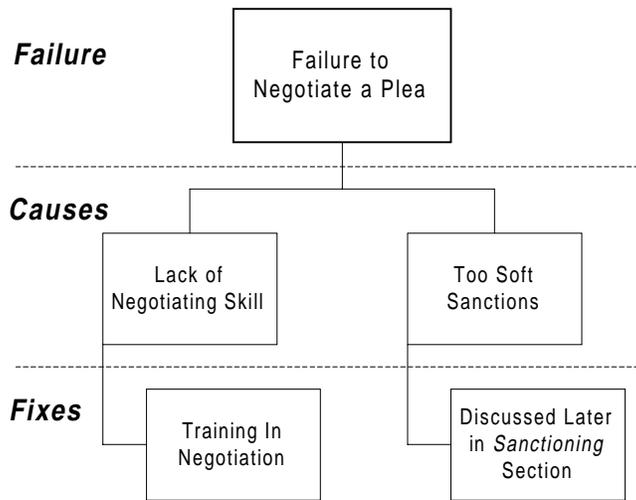


The next failure is *too few guilty pleas at arraignment* (**Figure 4-24**). This is likely to occur in jurisdictions in which judges believe that a suspect will, because of not understanding the consequences of a guilty plea, be denied due process by entering a guilty plea.

In such instances, a guilty plea will not be accepted. One fix is to make sure that defendants who are financially unable to be represented by counsel at arraignment are offered the opportunity to confer with a public defender before pleading. A second fix is to give a suspect a chance to vacate his or her guilty plea later after conferring with counsel.

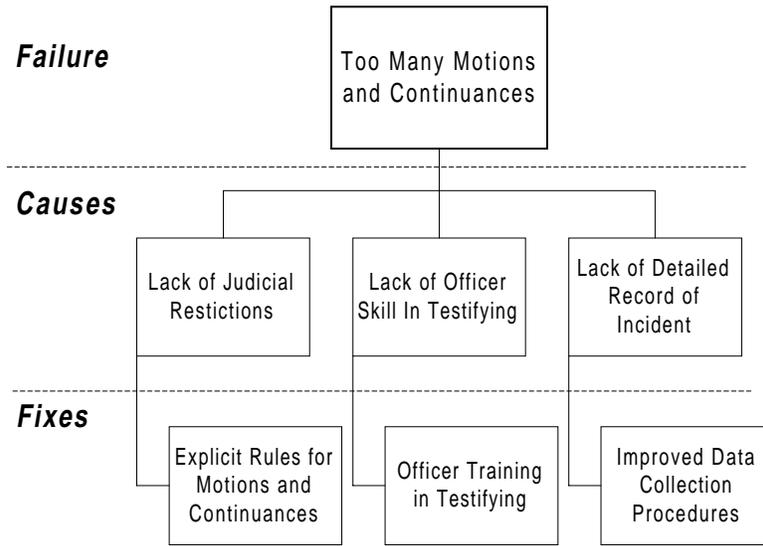
A third failure is a *failure to negotiate a plea*. This can be caused by the prosecutor’s lack of skill in negotiating techniques. It can also be caused by a prosecutor’s inability to offer an acceptable plea bargain because of sentencing practices that result in sanctions that are less tough than those that could be offered in a plea bargain (**Figure 4-25**). Training in negotiating skills will help remedy the first cause. The second cause is a sanctioning issue that is addressed later.

Figure 4-25: Causes and Fixes of “Failure to Negotiate a Plea”



The last failure is *too many motions and continuances*. Some defense attorneys will continue to file motions serially until they get a “hit,” and continuances provide the defense the opportunity to delay closure and by that increase the chances of such occurrences as the failure of a key witness to appear. The main cause of this problem is a lack of judicial restrictions on motions and continuances (**Figure 4-26**). The fix for this cause is the establishment of judicial rules (possibly at the state level) setting time limits for filing motions and explicitly limiting the conditions under which continuances will be granted. “Weasel words” such as “if practical” and “to the

Figure 4-26: Causes and Fixes of “Too Many Motions and Continuances”



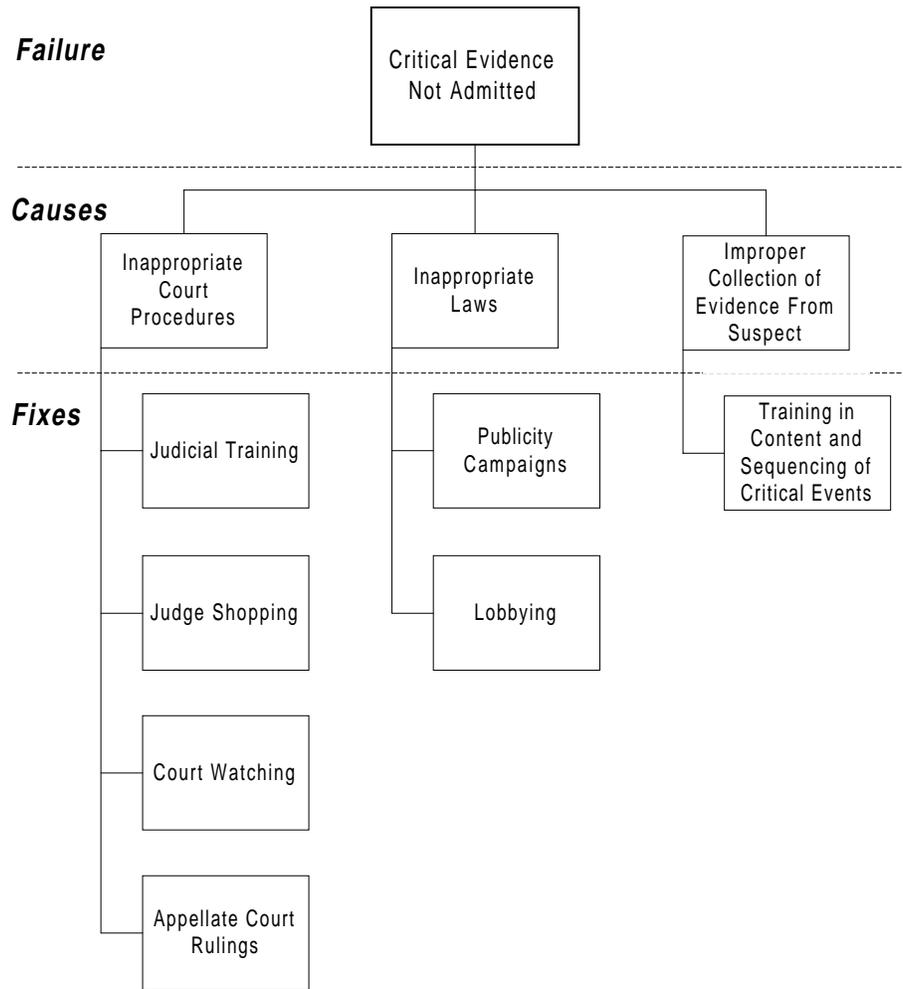
extent possible” should be avoided in such rules. It has also been suggested that chronic abusers of continuance privileges be dealt with by scheduling hearings after normal working hours. In any case, judicial toughness is required to move the proceedings along.

Pre-trial motions are also sometimes generated by a lack of officer skill in testifying and by the officers not having detailed facts at hand describing the incident. The fixes for these causes are (1) training in testifying and (2) having a well-prepared incident report with a clear narrative of the incident and the circumstances surrounding it.

Failure to Convict DWIs. The first failure in this group, *defendants fail to appear*, has already been discussed on page 78 in connection with a failure to obtain guilty pleas from DWIs. The second failure in this group, *critical evidence not admitted*, may be caused by *inappropriate court procedures* and by *inappropriate laws* which might allow such evidence as the results of the horizontal gaze nystagmus (HGN) portion of the standardized field sobriety test (SFST) to be excluded (**Figure 4-27**).

Inappropriate court procedures could be corrected through judicial training of the type sponsored by NHTSA and conducted by the National Judicial College at Reno, Nevada. This may not always work, since some judges may regress to their old habits after attending courses. Then, other remedies may have to be tried, such as “judge shopping” by prosecutors (in large jurisdictions) and the use of reporters from the news media and members of advocacy groups such as Mothers Against Drunk Driving to “court watch” heavily-biased judges. Having state appellate courts

Figure 4-27: Causes and Fixes of “Critical Evidence Not Admitted”



establish the validity of evidence (such as HGN test results) through appeal is another possible fix for this problem. When the statutes themselves are the cause, efforts to influence legislators may be required, including publicity campaigns and direct lobbying by advocacy groups.

The third cause of critical evidence not being admitted at trial is *improper collection of evidence from suspect*. This occurs most frequently when the judge rules that the officer did not have probable cause for the stop. It also may happen when the rules regarding custodial questioning are violated and suspects are questioned after an arrest but before being given the Miranda warning. Finally, it may occur in conjunction with the implied consent warning, when the warning is given

at such a time and in such a manner that the suspect becomes confused about rights to counsel and about the consequences of refusing a BAC test. The fix is officer training in observing for DWI cues and in the proper sequencing of critical interactions between the officer and the suspect. The sequence should be:

- pre-arrest questioning
- arrest
- implied consent warning
- chemical testing
- Miranda warning
- post-arrest custodial questioning (if any)

The arresting officer should keep a record of the times of these events should the sequencing be questioned in court. The incident report should provide a space for such data. It is also recommended that a tape recorder be used during transport of the suspect to capture any spontaneous remarks made by the suspect.

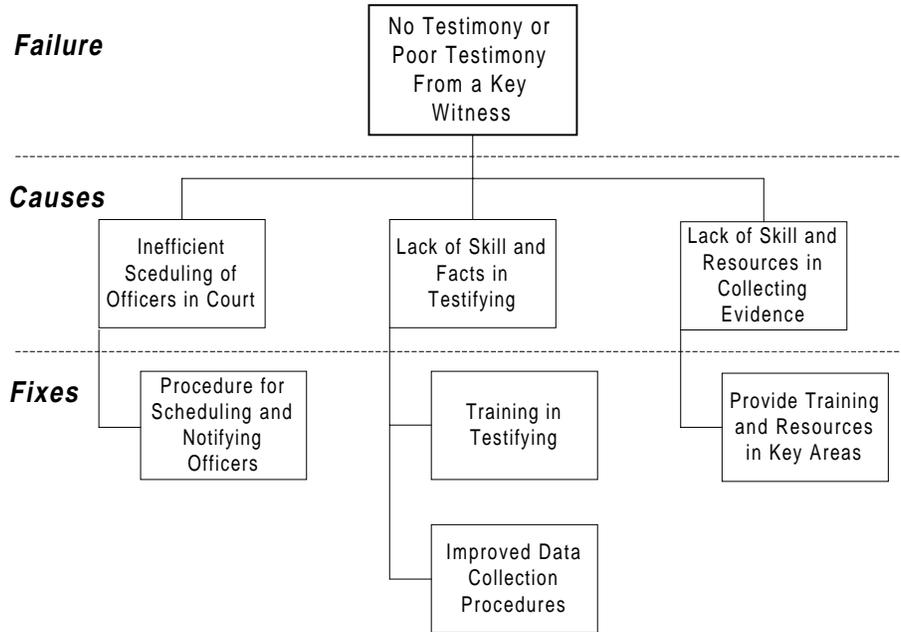
A third failure leading to a failure to convict DWIs is *no testimony or poor testimony from a key witness (Figure 4-28)*. Usually the key witness will be the arresting officer, and the cause of not obtaining any testimony at all from the officer will usually be *inefficient scheduling of police officer appearances in court*⁶. This failure results in wasted time and money when officers are required to appear in court only to find that the trial has been postponed. Or officers may be required to appear at proceedings earlier than they could occur, for example, appear in the morning when jury selection is scheduled and wait until the afternoon for the trial. Another possible result of poor scheduling is case dismissal when an officer is not notified of an appearance in time to attend.

The fix is to (1) maintain a status of officers' scheduled court appearances and to (2) notify officers of that status. One way of doing this is to establish a procedure by which officers are scheduled by shift, and subpoenas for court appearances are issued immediately after the arrest and delivered directly to the police agency. The procedure could require the establishment of a court liaison officer who would check daily with the court and notify officers of the status of their appearances.

Poor testimony from a key witness (again, usually the arresting officer) can be due to a variety of factors. One such factor, *a lack of officer skill in testifying and officers not having detailed facts at hand describing the incident*, was discussed previously on page 81 concerning the problem of excessive numbers of pre-trial motions. Another cause is *a lack of skill or resources for collecting evidence*. The obvious fix is to provide the needed skills through training and to get the needed resources.

⁶ This problem is also encountered at pre-trial hearings where they are most troublesome due the number and lack of management of such hearings.

Figure 4-28: Causes and Fixes of “No Testimony or Poor Testimony From a Key Witness”



An example illustrating principles that apply to other deficiencies of this type is the use of videotaping to capture driving behavior leading to a stop, and a suspect’s behavior afterwards. We found staff involved in enforcing and adjudicating BAC laws to be nearly unanimous in agreeing that such evidence can be highly effective in a trial if the taping is done properly. The problem is that very often the tapes do not show the subtle signs of impairment that can be convincing to a jury or a judge (in a bench trial). To make them more effective requires proper placement of the camera in the police vehicle (as close to the driver as possible) to obtain a perspective that will show the maneuvers of the suspect’s vehicle with respect to road lane markers.

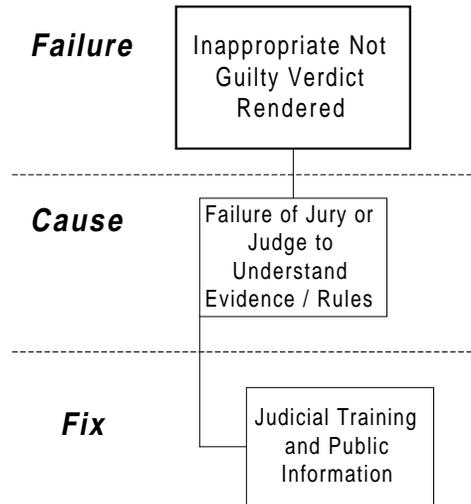
If possible, the camera should be aimed such that the suspect’s demeanor and performance of field tests can be clearly observed and taped. Taping of the suspect should be conducted as soon after the stop as possible before the suspect has time to gain control and “pull himself / herself together.” The tape should be accompanied by a narrative description of what is being taped.

Equipment is an extremely important to producing quality videotapes that will be convincing to a judge or jury. Police agencies should have standards for equipment used in videotaping. The standards should be set by officers who use or have recently used such equipment in DWI enforcement, rather than by administra-

tors. As a rule, departments should purchase the best equipment available, taking care to include such features as a dual microphone and a counter for quickly finding specific portions of a tape.

The fourth and last failure in this group is *inappropriate not-guilty verdict rendered*. As indicated previously, this failure is caused by *jury members (or the judge in bench trials) failing to understand or interpret the evidence or court rules correctly* (Figure 4-29). Judicial training programs of the type discussed above and public information and education programs are possible fixes for this problem.

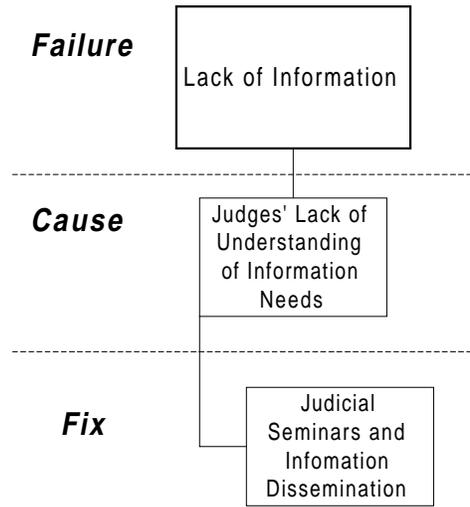
Figure 4-29: Cause and Fix of “Inappropriate Not Guilty Verdict Rendered”



Sanctioning

Failure to Impose Appropriate Sanctions. *Lack of information* is the first failure in this group. It is caused, first, by the lack or inaccessibility of systems to provide information about the offender and information about sanctioning resources. It can also be caused by a lack of resources to help a judge in interpreting available information and recommending a sanctioning package for a given offender. Underlying these two factors is a lack of understanding by DWI enforcement system managers and actors of (1) the role of sanctioning in reducing alcohol-crash risk and (2) the necessity for having information to fulfill that role. Along with this, there will most likely be a lack of funds for designing and operating systems that can provide the needed information (Figure 4-30).

Figure 4-30: Cause and Fix of “Lack of Information”

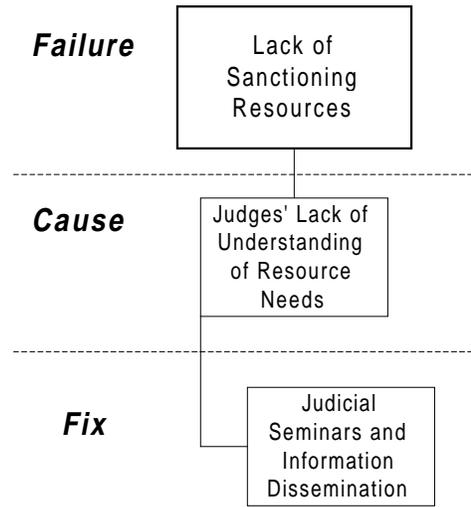


One fix for increasing knowledge about information needs is to provide seminars for judges (especially newly-appointed or newly-elected judges) on the role of judges as the official sanctioning authority of the DWI enforcement system, and the information requirements for that role. The seminars should be conducted at the state level and include modules devoted to identifying existing information resources and gaps between existing resources and needed resources. Strategies and programs for filling these gaps should be identified at the seminars, and the status of prior attempts at gap-filling should be reviewed. Research findings on the effectiveness of various sanctions in reducing alcohol-crash risk should also be presented at the seminars.

Methods of financing information system development and improvement cannot be specified here because of their dependence upon local conditions. In general, they might follow the same general approaches as discussed earlier in this report on page 65 concerning enforcement subsystem needs.

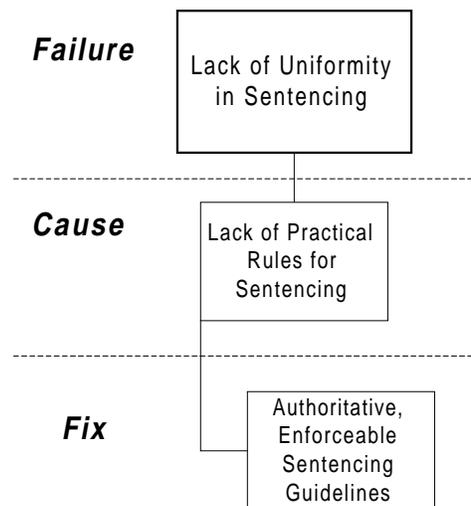
The second failure in this group is a *lack of sanctioning resources* such as jail space, treatment programs for alcoholism and problem drinking, and alternative sanctioning programs such as intensive supervision probation, electronic monitoring, ignition interlock devices, and vehicle sanctions (**Figure 4-31**). The cause will again be a *lack understanding of the need for such resources and a lack of funds to provide them*. Initiatives such as those just discussed above are needed to fix these deficiencies.

Figure 4-31: Cause and Fix of “Lack of Sanctioning Resources”



The third failure is a *lack of uniformity in sentencing* across jurisdictions or among individual judges in a jurisdiction (**Figure 4-32**). This is caused by a *lack of any enforceable, general rules indicating which sentences are appropriate for which classes of offenders*. Ranges of sanctions specified in statutes or regulations are often too wide for everyday use.

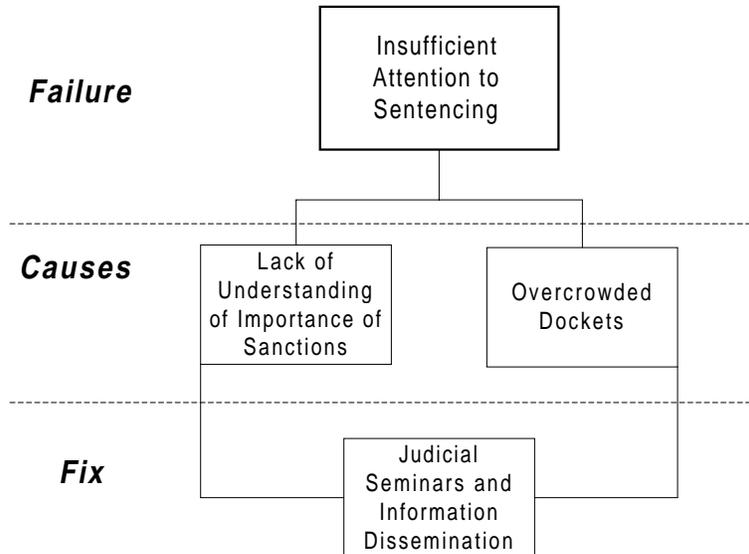
Figure 4-32: Cause and Fix of “Lack of Uniformity in Sentencing”



To fix this problem, sentencing guidelines should be promulgated (at the state level for states with statewide court systems) and presented to judges periodically at judicial conferences and in newsletters published by court administrative offices. Means for monitoring adherence to the guidelines should be included along with provisions for enforcing the guidelines and for keeping them up to date.

The last failure in this group occurs when judges give *insufficient attention to sentencing* (**Figure 4-33**). The two causes of interest here are (1) *a lack of understanding of the importance of the role of sanctioning in reducing alcohol-related traffic crashes* and (2) *overcrowded dockets*. The first cause was discussed above.

Figure 4-33: Cause and Fix of “Insufficient Attention to Sentencing”

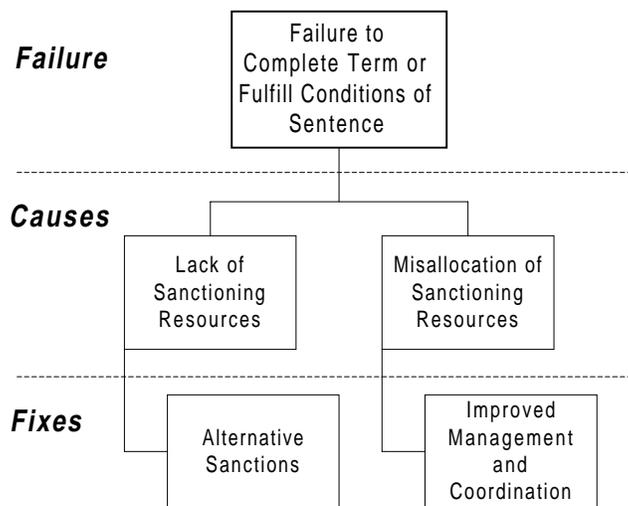


There is no simple fix for the second cause which may be the result of too many cases and too few judges. We noted above that too many cases may be the result of overly-lenient sentencing practices that cause defendants to opt for a trial rather than accept a plea bargain that may require a harsher sanction. Judges must be made aware of this possibility through seminars, judicial conferences, newsletters, and other media. Laws prohibiting plea bargaining also contribute to more cases going to trial, making it necessary to advise legislators contemplating passing such a law that the law may have to provide for additional judges.

Failure to Execute Imposed Sanctions. This class of failures occurs when appropriate sanctions are imposed, but one or more components of the sentencing package are not fulfilled. The first failure in this class is *failure to complete the term of the sanction* (such as when only part of a jail term is completed). The second failure is *failure to fulfill the conditions of the sentence* (such as when offenders fail to appear for a treatment session or a BAC test required as a condition of probation).

As suggested on page 63, one cause of both of these failures is a *lack of sanctioning resources*, when such a lack was not taken into account in imposing the sentence in the first place (**Figure 4-34**). This failure and a possible fix were discussed above. In looking for ways to augment existing resources, system managers should consider alternatives to current high-cost sanctions such as jail. Recent research suggests that sanctions such as intensive supervision probation and electronic monitoring can be more effective in reducing recidivism for some classes of DWIs than is jail. Often, the cost of operating these sanctions can be borne by the offenders and the facilities operated by private contractors.

Figure 4-34: Causes and Fix of “Failure to Complete Term or Fulfill Conditions of Sentence”

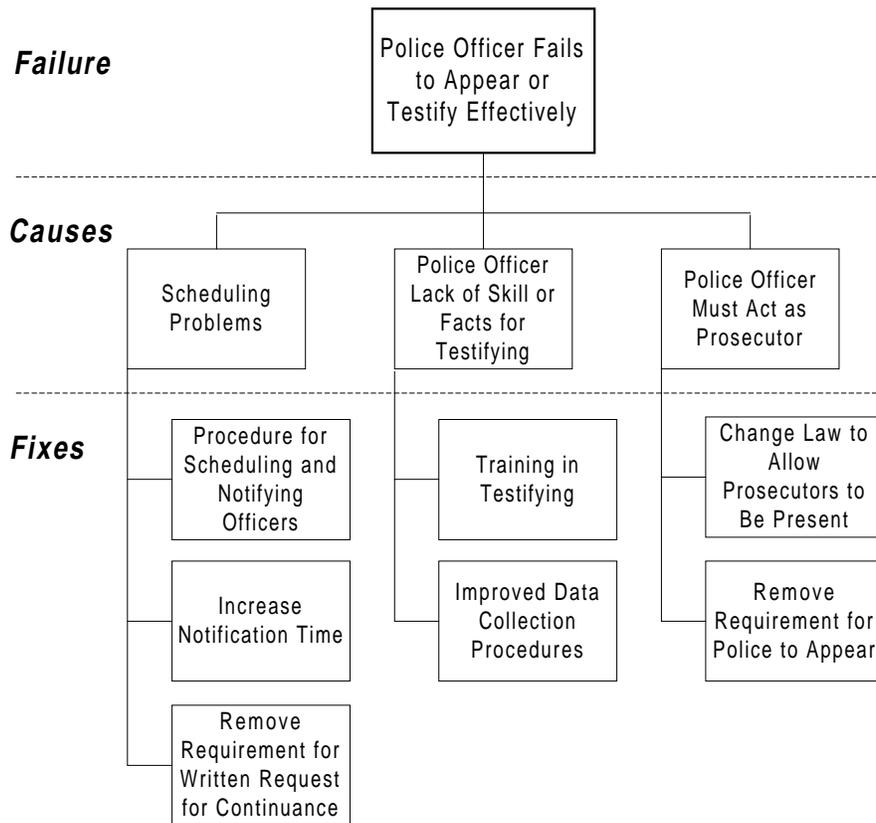


A second cause is a *misallocation of sanctioning resources*, for example, devoting too few resources to probation supervision and too many resources to treatment. This problem can be fixed quite easily through standard management techniques when the resources involved are under the control of a single agency, for example, a probation department that supervises clients and contracts for treatment services with private agencies. Often, though, the resources are operated by multiple agencies, for example, a state correctional department for prisons and a probation

department serving a particular court for supervising probationers. In these instances, coordinating committees have to be established to arrive at some compromise in resource allocation. Such committees should meet regularly and include in their agenda the consideration of new sanctioning alternatives of the types mentioned above.

Failure to Uphold Administrative Sanctions. The first failure in this group is *officer fails to appear* or after appearing, the *officer's testimony is not effective* (Figure 4-35). The failure to appear will almost always be due to scheduling

Figure 4-35: Causes and Fix of “Police Officer Fails to Appear or Testify Effectively”



problems of the types noted on page 83 and can be addressed through fixes noted there. It can also be dealt with by increasing time between the notification to appear and the appearance and by removing any requirement that an officer file a written motion for a continuance when he or she cannot appear.

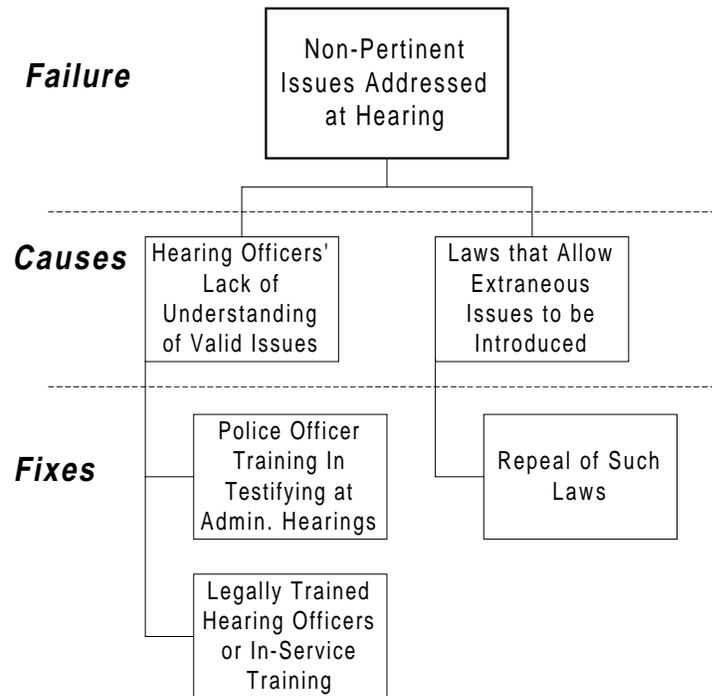
Ineffective testimony is caused by a lack of officer skill in testifying and by officers not having detailed facts at hand describing the incident. As indicated on page 81, the fixes for these causes are (1) training in testifying and (2) having a well-

prepared incident report with a clear narrative of the incident and the circumstances surrounding it.

Another, perhaps even more basic cause of ineffective testimony, is the provision in the laws of some states that prosecutors *may not* appear at a hearing, placing the police officer in the role of prosecutor. This results in police officers who are not legally trained being pitted against a defendant who is represented by an attorney. This lack of a “level playing field” is believed to cause more defendants to request administrative hearings. In addition to changes in the law removing such restrictions on the prosecution, a fix is to remove the requirement (which may be statutory in some jurisdictions) for the police officer to appear at all, with the hearing officer merely reviewing the paperwork and having the hearing tape-recorded. This could be supported by having the officer’s report sworn and notarized.

Another failure in this group is the hearing officer allowing *non-pertinent issues to be addressed at the hearing*. One cause is hearing officers’ lack of understanding of what makes up a valid issue (**Figure 4-36**). One fix is to train police officers to be firm and not to answer “discovery-type” questions that are beyond the scope of an administrative hearing. These officers should be trained not to be reluctant to file an appeal when such questions are asked. Police officers should always request a copy of the transcript of the hearing (and other adjudicative hearings) for use in court in an appeal. Another fix is to require hearing officers to be legally trained and/or to receive on-the-job-training in the details of their duties.

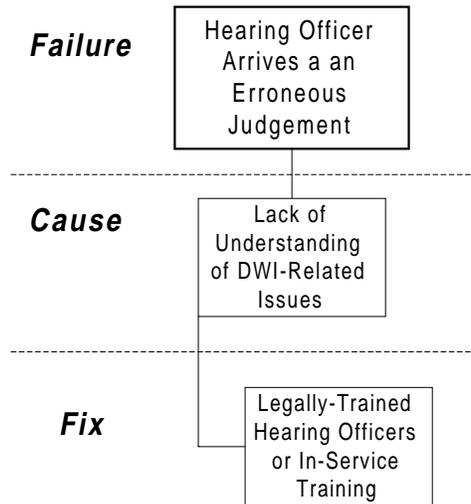
Figure 4-36: Causes and Fixes of “Non-Pertinent Issues Addressed at Hearings”



Some states have laws that allow the issue of probable cause to be brought up at an administrative hearing. Action should be undertaken to repeal such laws and thus keep hearings administrative rather than criminal in which probable cause is a recognized issue. Issues should be limited to whether the driver was driving with an illegally high BAC (for a *per se* law infraction) or refused a valid request to take a BAC test.

A failure to uphold an administrative decision may also occur when the *hearing officer arrives at an erroneous judgement*. This failure may also cause the hearing to be extended in time and result in more requests for a hearing (**Figure 4-37**). This failure is typically caused by a lack of knowledge of the law, alcohol impairment of driving performance, techniques for determining impairment, or some combination of these. Again, the fix is to require hearing officers to be legally trained and/or to receive on-the-job-training in these areas.

Figure 4-37: Cause and Fix of “Hearing Officer Arrives at an Erroneous Judgement”



We close this discussion by observing that the enforcement of administrative license suspension laws is not running as smoothly in some jurisdictions as thought. Because of numerous problems of the types noted above, officers in such jurisdictions believe that the laws are counterproductive and just add to their burden by causing them to appear in adjudicative proceedings more often, including two types of administrative hearings (implied consent and administrative *per se*) and three types of judicial proceedings (arraignment, pre-trial hearing, and trial). This in turn, leaves them less time to perform their operational functions of finding and interdicting DWI violators. For these reasons, police officers in one jurisdiction we studied have

stopped processing administrative infractions altogether and now concentrate their efforts on criminal-law violations related to alcohol-impaired driving.

IMPLEMENTATION OF SYSTEM FIXES

Implementing some of the above fixes can be more difficult than may be implied. In particular, their implications for the overall DWI enforcement system need to be taken into account before virtually any of them is undertaken. A change in the operation in one area of the DWI enforcement system may have unanticipated negative consequences elsewhere in the system unless a system-wide perspective is taken when considering such a change. When such a view is taken, appropriate decision makers in other components of the system may need to be brought into the discussion and potential problems identified and prevented.

An example is streamlining the paperwork requirements for the arresting officers. The root impetus for this fix is to speed the processing time at the time of the arrest and thus allow the officer to return to patrol more quickly and resume searching for other DWI offenders. Thus, the most basic mechanical benefit of this fix is more patrol time. Officers often find the paperwork requirements of processing a DWI arrest arduous, and this acts as a disincentive to making DWI arrests in the first place. The intended consequences of making the arrest processing time briefer and paperwork requirements less arduous are more patrol time and a lessened disincentive to making DWI arrests -- resulting in more DWI arrests.

However, at the front end, if the streamlining involves eliminating some forms, one must examine the reasons the forms existed in the first place. Some may be required by statute, and eliminating them at the local level may be difficult. Some that serve more local needs may have been initiated by other components of the system such as the prosecutor or judiciary. Obviously, any potential changes must be coordinated with these other actors in the system. Ironically, a form that creates an additional burden for the arresting officer may have been created to make processing easier for the prosecutor or clerk of court. Coordination with them could result in a consolidated form that meets each component's needs without creating new burdens on others.

Additionally, if the fundamental purpose of the fix is achieved, i.e., more patrol time and thus more DWI arrests, there are further implications for the overall system. Can the prosecutors, courts and sanctioning components of the system handle the additional caseload generated by additional DWI arrests? For that matter will the police be able to accommodate the additional court time required to prosecute these offenders? And, if additional resources are required, will funding sources and the public be willing to support the allocation of additional resources to the DWI enforcement system? These questions must be answered before embarking on any program of change.

In summary, when considering implementing a solution to a specific problem within the DWI enforcement system, one must take into account:

- the requirements imposed by the laws that are being enforced and by legal constraints such as probable cause;
- the implications of the fix for other components of the system;
- higher order effects of the fix on the component being fixed;
- the resources required to implement the fix; and
- the potential need for public support.

SUMMARY AND CONCLUSIONS

A number of failures in DWI enforcement systems were identified and traced to their causes. The failures can occur in all three of the top-level functions of the system, and can result in reduced system performance. When they occur, they degrade the ability of the enforcement subsystem to find DWI suspects, confirm suspects as DWI, and process DWIs in a timely manner. The failures also degrade the performance of the adjudication and sanctioning subsystems in charging, obtaining guilty pleas, convicting, and sanctioning DWIs.

Suggested fixes for these failures fall into the following categories:

- expanded training;
- new or modified procedures;
- additional equipment, facilities, and personnel;
- additional funding;
- new or modified laws; and
- focused public information programs.

Expanded training consists of tailored training programs for police officers, prosecutors, judges, and administrative hearing officers. Depending on the needs of a jurisdiction, the training programs should address the following areas:

- nature and size of the alcohol-crash problem nationally and locally,
- DWI driving cues,
- proper sequencing of critical interactions between the officer and the suspect,
- observable signs of alcohol impairment,
- field sobriety testing using the standardized field sobriety test (SFST),
- evidentiary breath alcohol testing, and
- DWI investigative methods.

In addition, we suggest that specialized training be provided to police officers in testifying in judicial and administrative hearings, and to prosecutors in negotiating techniques for developing pleas in arraignments and pre-trial hearings. Judges should participate in specialized judicial training courses of the type sponsored by NHTSA and conducted by the National Judicial College at Reno, Nevada. The judicial training should include units on the characteristics of DWI offenders and the selection of appropriate sanctions for such offenders.

New or modified procedures may be needed in all phases of DWI enforcement. In particular, procedures are needed to:

- deploy patrol units more effectively,
- adopt more productive enforcement strategies,
- reduce the number of forms and data items used by police in documenting interactions with suspects,
- use clerical staff instead of patrol officers for support functions such as completing forms,
- establish and operate a system of rewards for outstanding DWI performance by general patrol officers,
- make better use of existing enforcement support resources (e.g., tow trucks),
- have routine, periodic review of operating procedures of all subsystems,
- better maintain BAT equipment,
- certify all patrol officers as BAT operators,
- require the state DMV take action against the driver license of defendants who fail to appear at adjudicative proceedings,
- ensure that all defendants are offered the opportunity to confer with a public defender before pleading,
- give a suspect a chance to vacate a guilty plea after conferring with counsel,
- provide judicial rules setting time limits for filing motions and limiting the conditions for continuances,
- schedule hearings after normal working hours to discourage filing of continuances,
- have state appellate courts establish the validity of SFST evidence through appeal,
- have a court liaison officer check daily with the court and notify officers of their appearance status,
- establish sentencing guidelines and present them periodically to judges at judicial conferences and in newsletters, and
- increase the notice given to police officers of their appearance in administrative hearings.

Additional equipment, facilities, and personnel may be needed in some jurisdictions to improve performance and efficiency. Resources that are especially critical and may require augmenting are:

- mobile BAT facilities,
- BATs in police substations,
- computerized DWI information system for all system activity,

- high-quality videotaping equipment, and
- personnel as needed for selected, understaffed functions.

In addition, there is a continuing need for improvements to the equipment itself. For example, current BAT devices require a 20 minute waiting period to clear mouth alcohol from a suspect. New technologies are needed to eliminate this need and thus further reduce suspect processing time.

Additional funding is needed to support operations in nearly all jurisdictions. Suggested strategies for obtaining such funding are:

- use of self-sufficiency initiatives (such as having the offender pay the cost of a program) to finance additional resources,
- use of private contractors to reduce cost of current operations,
- selling the need to deal aggressively with the DWI problem to state and local funding agencies,
- use of media and advocacy groups to help get support for additional funding, and
- coordinating committees to arrive at any necessary compromises among governmental agencies in allocating resources.

Some provisions of statutes and regulations are inadequate or may create problems for the DWI enforcement system in some jurisdictions. These laws prohibit behavior that creates risk, and provide for the operation of the system. Desirable provisions that may require *new laws or modifications to existing laws* are:

- permit SFST results as evidence,
- allow prosecutors to appear at an administrative hearing,
- do not require police officers to appear at an administrative hearing, and
- do not permit criminal procedures to be followed in administrative hearings.

Finally, a widespread need exists for *focused public information programs* to gain public support for the operation of the DWI enforcement system. Topics that need addressing in such programs are:

- the nature and size of the alcohol-crash problem,
- resource needs of the BAC-law enforcement system,
- need for new or revised laws dealing with DWI, and
- advice to citizens on how best to respond to observation of DWI driving.

Clearly, not all jurisdictions require all these remedies, and some fortunate jurisdictions may require none. Agencies of local DWI enforcement systems need

periodically to examine their total operations to identify failures and to find out which, if any, of the fixes suggested in this chapter could be applied. Inter-agency coordinating committees of the type alluded to in this chapter are one mechanism for examining failures and fixes on a system-wide basis.